

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 641

Introduced by Assembly Member ~~Dahle~~ Mayes

February 24, 2015

~~An act to amend Section 21082.2 of the Public Resources Code, relating to the environment. An act to add Section 21172 to the Public Resources Code, relating to environmental quality.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 641, as amended, ~~Dahle~~ Mayes. Environmental quality: ~~environmental impact reports; housing developments.~~

The California Environmental Quality Act requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. The act also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. The act establishes a procedure by which a person may seek judicial review of the decision of the lead agency made pursuant to the act.

This bill would require the Judicial Council, on or before July 1, 2016, to adopt a rule of court to establish procedures applicable to actions or proceedings seeking judicial review of a public agency's action in certifying the environmental impact report and in granting

approval for housing developments, as defined. The procedures would require the actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the certification of the record of proceedings. The bill would prohibit a court from staying or enjoining those housing developments unless it makes specified findings.

~~The California Environmental Quality Act requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. The act also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. The act requires the lead agency to determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21172 is added to the Public Resources
2 Code, to read:
3 21172. (a) For the purposes of this section “housing
4 development” means any activity related to the new construction
5 of houses or dwelling units for the primary purpose of providing
6 decent, safe, and sanitary housing for persons and families of all
7 income levels. A housing development includes, but is not limited
8 to, any building, land, equipment, facilities, or other real or
9 personal property that a local agency determines to be necessary
10 or convenient in connection with the provision of housing,
11 including, but not limited to, streets, sewers, utilities, parks, site
12 preparation, landscaping, and other nonhousing facilities, such
13 as administrative, community, health, recreational, educational,

1 commercial facilities, and that the local agency determines are an
2 integral part of a housing development.

3 (b) Notwithstanding any other law, the procedures established
4 pursuant to subdivision (c) shall apply to an action or proceeding
5 brought to attack, review, set aside, void, or annul the certification
6 of the environmental impact report for a housing development or
7 the granting of any approvals for a housing development.

8 (c) On or before July 1, 2016, the Judicial Council shall adopt
9 a rule of court to establish procedures applicable to actions or
10 proceedings brought to attack, review, set aside, void, or annul
11 the certification of the environmental impact report for a housing
12 development or the granting of any project approvals. These
13 procedures shall require the actions or proceedings, including
14 any potential appeals therefrom, to be resolved, to the extent
15 feasible, within 270 days of certification of the record of
16 proceedings.

17 (d) (1) In granting relief in an action or proceeding brought
18 pursuant to this division, the court shall not stay or enjoin the
19 construction or operation of a housing development unless the
20 court finds either of the following:

21 (A) The continued construction or operation of the housing
22 development presents an imminent threat to the public health and
23 safety.

24 (B) The site of the housing development contains unforeseen
25 important Native American artifacts or unforeseen important
26 historical, archaeological, or ecological values that would be
27 materially, permanently, and adversely affected by the continued
28 construction or operation of the housing development unless the
29 court stays or enjoins the construction or operation of the housing
30 development.

31 (2) If the court finds that subparagraph (A) or (B) of paragraph
32 (1) is satisfied, the court shall only enjoin those specific activities
33 associated with the housing development that present an imminent
34 threat to public health and safety or that materially, permanently,
35 and adversely affect unforeseen important Native American
36 artifacts or unforeseen important historical, archaeological, or
37 ecological values.

38 ~~SECTION 1. Section 21082.2 of the Public Resources Code~~
39 ~~is amended to read:~~

1 ~~21082.2. (a) The lead agency shall determine whether a project~~
2 ~~may have a significant effect on the environment based on~~
3 ~~substantial evidence in light of the whole record.~~

4 ~~(b) The existence of public controversy over the environmental~~
5 ~~effects of a project shall not require preparation of an~~
6 ~~environmental impact report if there is no substantial evidence in~~
7 ~~light of the whole record before the lead agency that the project~~
8 ~~may have a significant effect on the environment.~~

9 ~~(c) Argument, speculation, unsubstantiated opinion or narrative,~~
10 ~~evidence that is clearly inaccurate or erroneous, or evidence of~~
11 ~~social or economic impacts that do not contribute to, or are not~~
12 ~~caused by, physical impacts on the environment, is not substantial~~
13 ~~evidence. Substantial evidence shall include facts, reasonable~~
14 ~~assumptions predicated upon facts, and expert opinion supported~~
15 ~~by facts.~~

16 ~~(d) If there is substantial evidence, in light of the whole record~~
17 ~~before the lead agency, that a project may have a significant effect~~
18 ~~on the environment, an environmental impact report shall be~~
19 ~~prepared.~~

20 ~~(e) Statements in an environmental impact report and comments~~
21 ~~with respect to an environmental impact report shall not be deemed~~
22 ~~determinative of whether the project may have a significant effect~~
23 ~~on the environment.~~